

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

UNITED STATES OF AMERICA :
 :
 v. : File No. 1:08-CR-59-1, -3, -4
 :
 JOHN BELANGER, JACK LEVY :
 CARLOS CINTRON, :
 Defendants. :

OPINION AND ORDER
(Paper 120)

Defendants John Belanger, Jack Levy and Carlos Cintron were indicted May 22, 2008 on charges of conspiracy to distribute marijuana in excess of 50 kilograms in violation of 21 U.S.C. 846, 841(a), and 841(b)(1)(C) and forfeiture under 21 U.S.C. 853. The Government moves the Court to sever the trial of defendant Carlos Cintron from co-defendants John Belanger and Jack Levy.

Under Federal Rule of Criminal Procedure 14(a), the Court may sever the defendants' trial if a consolidated trial "appears to prejudice a defendant or the government." The Government seeks to introduce a confession by defendant Cintron implicating himself and the co-defendants in a conspiracy to distribute marijuana. The Government asserts introduction of Cintron's confession in a consolidated trial would likely violate the co-defendants' Sixth Amendment right to confrontation under Bruton v. United States, 391 U.S. 123, 127 (1968).

The Court has considered the Government's arguments and finds a consolidated trial would result in prejudice. In the interest of justice, the Court GRANTS the Government's Motion to Sever. See Fed. R. Crim. P. 14(a) (court may order separate trials of counts, sever the defendants' trials, or provide any other relief that justice requires); see also United States v. Grullon, 482 F. Supp. 429, 431 (E.D. Pa. 1979) (granting motion to sever where introduction of defendants' post-arrest statements in consolidated trial would jeopardize codefendants' rights under Bruton and result in prejudice); United States v. Rule, 600 F. Supp. 127, 129 (D. Me. 1984) (granting motion to sever and conduct first the trial of codefendant who Government planned to call as witness in a second trial under grant of immunity).

The Government's Motion to Sever Trial is GRANTED. Defendant Cintron's case shall be placed on the August trial calendar.

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 13th day of July, 2009.

/s/ J. Garvan Murtha
Honorable J. Garvan Murtha
Senior United States District Judge